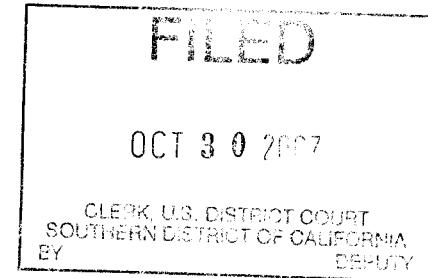


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 12 UNITED STATES OF AMERICA



13 UNITED STATES DISTRICT COURT

14 SOUTHERN DISTRICT OF CALIFORNIA

07cr2932-H

15 UNITED STATES OF AMERICA,) Magistrate Case No. 07MJ2463
 16 Plaintiff,)
 17 v.) **STIPULATION OF FACT AND JOINT
 18 MOTION FOR RELEASE OF
 19 MATERIAL WITNESS(ES) AND
 20 ORDER THEREON**
 21 Defendant.)
 22 _____
 23 (Pre-Indictment Fast-Track Program)

24 IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES
 25 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and
 26 Carla J. Bressler, Assistant United States Attorney, and defendant IRVING TRINIDAD RUIZ-
 27 BARRERAS, aka Policarpio Acosta-Verdugo, by and through and with the advice and consent of
 28 defense counsel, Russell S. Babcock, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
 2 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
 3 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
 4 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
 5 of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
 6 § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

7 //

8 CJB:es:10/17/07

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **November 16, 2007**.

6 4. The material witnesses, Velia Lara-Meneses, Cecilia Martinez-Sanchez and V.H.M.
7 (a male juvenile), in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;
9 b. Entered or attempted to enter the United States illegally on or about
10 October 15, 2007;

11 c. Were found in a vehicle driven by defendant at the San Ysidro, California Port
12 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that they were
13 aliens with no lawful right to enter or remain in the United States;

14 d. Were paying or having others pay on their behalf an undisclosed amount of
15 money to \$2,000 to others to be brought into the United States illegally and/or transported illegally
16 to their destination therein; and,

17 e. May be released and remanded immediately to the Department of Homeland
18 Security for return to their country of origin.

19 5. After the material witnesses are ordered released by the Court pursuant to this
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any
22 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral
23 attack, that:

24 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
25 substantive evidence;

26 b. The United States may elicit hearsay testimony from arresting agents
27 regarding any statements made by the material witness(es) provided in discovery, and such

1 testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements
2 against interest of (an) unavailable witness(es); and,

3 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
4 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted
5 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant
6 waives the right to confront and cross-examine the material witness(es) in this case.

7 6. By signing this stipulation and joint motion, defendant certifies that defendant has
8 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
9 further that defendant has discussed the terms of this stipulation and joint motion with defense
10 counsel and fully understands its meaning and effect.

11 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
12 immediate release and remand of the above-named material witness(es) to the Department of
13 Homeland Security for return to their country of origin.

14 It is STIPULATED AND AGREED this date.

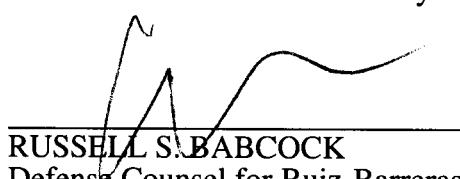
15 Respectfully submitted,

16 KAREN P. HEWITT
17 United States Attorney

18 Dated: 10/30/07.

19 
CARLA J. BRESSLER
Assistant United States Attorney

20 Dated: 10/30/07.

21 
RUSSELL S. BABCOCK
22 Defense Counsel for Ruiz-Barreras

23 Dated: 10/30/07.

24 
IRVING TRINIDAD RUIZ-BARRERAS
25 Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded

forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 10/30/07

W. Melvin
United States Magistrate Judge